

# PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: **BORCHERDING, et al.**

Examiner: SAEED, Kamal A.

Art Unit: 1626

Application No.: **10/788,997**

Filed: **February 27, 2004**

Title: **CYCLOALKYL-SUBSTITUTED  
AMINO ACID DERIVATIVES,  
PROCESSES FOR THEIR  
PREPARATION AND THEIR USE AS  
PHARMACEUTICALS**

### Letter of Good Faith and Candor Regarding Patent Term Under § 37 C.F.R. § 1.705

Mail Stop Issue Fee  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Applicants request reconsideration of the patent term adjustment indicated in the Issue Notification mailed on April 9, 2008.

Applicants submit herewith a "Statement of the Correct Patent Term Adjustment: Basis Under §1.702 For the Adjustment.

Any patent granted on this application is not subject to a terminal disclaimer.

The patent term adjustment shown on the Issue Notification is 520 days. It is respectfully suggested that the correct patent term adjustment under §1.702 is 397 days.

### Statement of the Correct Patent Term Adjustment

This statement is being submitted in support of the "Letter of Good Faith and Candor." The basis on which applicant seeks adjustment is as follows:

1. On September 18, 2007 Applicants filed a §1.312 amendment.

2. Applicants' September 18, 2007 §1.312 amendment is shown in the Patent Term Adjustment tab in PAIR; however, calculations for Applicants' delay have not been made. Applicants believe that they delayed 123 days as a result of filing a §1.312 amendment.
3. Applicants agree with all other calculations of Applicant delay. Applicants believe that their total delay was 152 days.
4. Applicants agree with USPTO's calculation of 549 days of delay by the USPTO.
5. Applicants conclude that they are entitled to an Adjustment of Patent Term under 35 USC 154(b) of only 397 days and not the 520 days as indicated in the April 9, 2008 Issue Notification.

The Commissioner is authorized to charge the \$200.00 fee set forth in §1.18(e) required by 37 C.F.R. §1.705(b)(1) to Deposit Account No. 18-1982. Applicant's ask that the \$200 fee be set aside since this a Letter of Good Faith and Candor in which applicants are requesting a reduction in patent term as a result of miscalculations made by the USPTO. The Commissioner is also authorized to charge any additional fees required by this paper or credit any overpayment to Deposit Account No. 18-1982.

Respectfully submitted,

  
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Docket No. DEAV2003/0081 US NP